

REMARKS

REJECTION UNDER 35 U.S.C 102(e)

Claims 1-29 were rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Publication No. 2002/0138407 A1 to Lawrence et al. ("Lawrence application"). The Lawrence application was published September 26, 2002 and has a filing date of March 20, 2001. The Lawrence application does not claim priority from any other application.

Attached with this response is a declaration under 35 CFR 1.131 from the inventor, Diane K. Smith, along with documents (exhibits 1-12), and a corroborating affidavit from Paul E. Kaboth, who is not an inventor or other interested party in this application and has personal knowledge of the invention claimed in this application. The declarations along with the attached exhibits show that the subject matter of claims 1-12 was reduced to practice on August 4, 1999, the subject matter of claims 13-14, 16-18 and 26-28 was reduced to practice on May 4, 1999, and the subject matter of claims 15 and 29-29 was reduced to practice on September 29, 2000. As shown in Exhibit 12, the inventor was continually refining the invention up to, and even after, the filing date of the provisional application 60/297,230 filed June 8, 2001 from which this application claims the benefit of priority. Therefore, the invention actually occurred before March 20, 2001, the filing date of the Lawrence application. The Lawrence application is new art and was first cited in the last office action, therefore, applicant did not have a reason prior to this office action to produce declarations to swear behind this reference.

Furthermore, the present invention is easily distinguishable from the Lawrence application. With respect to claims 1-17, the Lawrence application discloses a method for assessing the risk of a *financial transaction*, whereas the present invention is for assessing the risk of a *financial institution*. Claims 18-29 are directed to tracking either the examination of a financial institution or an inspection of a financial institution which is not disclosed by the Lawrence Application.

In view of the foregoing, it is respectfully submitted that the present application is in proper condition for allowance. If the Examiner believes there are any further matters which

need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.


If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. (47117/14489).

Respectfully submitted,

TUCKER ELLIS & WEST LLP

Date:

July 25, 2003



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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence (along with any paper referenced as being attached or enclosed) is being deposited on the below date with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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